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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/325,296 06/03/99 REIDENBACH B 1493-M

QM12/0106

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EXAMINER

NEWHOUSE, N

ART UNIT

PAPER NUMBER

3727

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DATE MAILED:

01/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/325,296

Applicant(s)

REIDENBACH, BRYAN L.

Examiner

Nathan J. Newhouse

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) ____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 17) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other:

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DETAILED ACTION

Drawings

The drawings filed on June 3, 1999 have been approved by drafting.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-21 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Throughout the specification and drawings, applicant describes a plurality of inner skirts to engage with the bottle to cause the breakaway skirt to remain with the bottle upon unscrewing. Applicant has not described in the specification that the breakaway skirt could function with only one inner skirt(claim 1 and 17), only two inner skirts(claim 4), and only one upper inner skirt and one lower inner skirt(claim 14). Furthermore, it would appear that in order for the breakaway skirt to engage properly with the bottle neck, a plurality of inner skirts(embodiment of claim 1 and 17) or upper

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inner and lower inner skirts(embodiment of claim 14) would have to be arranged around the circumference.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2 and 17-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rote '095.

5. Claims 1-5, 7-13 and 17-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by the EP reference(541,466).

The EP reference teaches a closure having a breakaway band extending downwardly from a plurality of frangible links. The breakaway band comprises an outer skirt and a plurality of inner skirts. Each of the inner skirts is connected at the bottom edge of the outer skirt and via a snap connection by protrusion on the inner skirt. The inner skirts also have an inwardly extending protrusion or wing that partially surrounds a stop ledge on the bottle.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

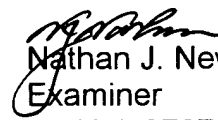
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Trout, Rohrs et al., Ostrowsky, Gargione, Ellis et al., Odet and Barriac teach similar breakaway bands on closure to what applicant is claiming.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Mon-Thur 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (703)-308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-305-3579 for regular communications and (703)-305-3580 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.


Nathan J. Newhouse
Examiner
Art Unit 3727

January 3, 2000